IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 28951 of 2007(V)

PETITIONER:

MOIDEEN.P.,S/O.ABDULLA,
AGED 37 YEARS,POTTAMMEL HOUSE,
PERUVAYAL AMSOM,KAYALAM DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENT:

THE DISTRICT COLLECTOR,
KOZHIKODE.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ANTONY DOMINIC,J.

W.P (C) No. 28951 of 2007

Dated this the 5th October, 2007

J U D G M E N T

Exhibit-P3 is an order passed by the District Collector under Rule 27 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. It is found in Exhibit P3 that the vehicle in question was involved in unauthorised transportation of river sand.

2. On the other hand it is submitted before that the petitioner had filed Exhibit-P2 before the District Collector, in which, he raised a specific contention that sand was transported with necessary pass. It is also seen that the time specified for transportation was 12.35 p.m. and the vehicle in question was seized on 14.30 p.m. On this basis, it is now contended before me that there was no unauthorised transportation of any river sand.

3. On a perusal of Exhibit-P3 order, I find that none of the contentions of the petitioner were considered by the 1st respondent in Exhibit-P3 and therefore Exhibit-P3 is bad for non-application of mind. For this reason, Exhibit-P3 deserves to be quashed.

4. Accordingly, Exhibit-P3 is quashed and the 1st respondent shall consider and pass orders in the matter taking into account Exhibit-P2, as expeditiously as possible, at any rate, within three weeks from the date of the receipt of a copy of this judgment.

5. In the mean time it will be open to the petitioner to move the District Collector for interim custody of the vehicle.

The writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007